

IV. REMARKS**RESPONSE TO OBJECTIONS****Claim Objections**

- **The Examiner's Position:**

Claims 27, 41, and 42 are objected to because of the following informalities: claim 27, line 7- change "a" to —the—; claim 41, line 3- change first recitation of "a" to —the--; claim 41, line 9- change third recitation of "a" to —the—; claim 42, line 3- change first recitation of "a" to -the—; and claim 42, line 7- change first recitation of "a" to -the--. Appropriate correction is required.

- **Applicants' Response:**

In order to expedite prosecution in this case, Applicant has amended claims 27, 41 and 42 accordingly.

RESPONSE TO REJECTIONS**35 U.S.C. §102(e)**

- **The Examiner's Position:**

The Examiner has rejected claims 27, 33, 34 and 37 under 35 U.S.C. §102(b) as being anticipated by Winn (Design US 158918). Regarding claim 27, Winn discloses a friendship band with a plurality of closed loop members comprising: a band section made of a first material that is flat in cross-section; a closure means attached to first and second ends of the band; and the plurality of closed loop members being mounted on the band, each closed loop member being made of a second material that is flat in cross-section, having a loop opening conforming the band cross-section, including indicia, and being removable, i.e. capable

of being removed, from the first or second ends of the band. Although Winn fails to

specifically disclose the closed loop members being exchangeable with closed loop members of other friendship bands, it is the Examiner's opinion that the closed loop members of other friendship bands are not being positively claimed and represents the intended use of the band. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art.

The Examiner also opines that the indicia are viewed as insignia. Regarding claim 34, the applicant is reminded method limitations, such the indicia being embroidered onto the closed loop member, are given allegedly little patentable weight in an article claim. Claim 37, the length dimension of the band being greater than its width dimension and thus the band is being viewed as elongated band capable of being worn as a necklace on a structure having a suitably dimensioned neck portion.

- **Applicants' Response:**

Applicants respectfully traverse the Examiner's 35 U.S.C. §102(b) rejections asserting in part that the reference of record do not teach every element of any claim. Applicants respectfully note that anticipation requires that each and every element of the claimed invention be disclosed in the prior art reference, device, or practice (See, *Akzo N.V. v. U.S. Int'l Trade Comm'n*, 808 F.2d 1471, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986).

As Applicant has amended the claims herein to streamline prosecution of the claims to embodiments of the invention which are currently believed to be of commercial interest, Applicant's comments will be directed to the new pending claims.

Applicants fundamentally disagree with the Examiner that the Winn reference teaches the presently claimed invention. The reference does not even remotely suggest slideably removable or

any slidably removable loops. On the contrary it perfectly clear to one of ordinary skill in the art that Winn's decorations are metallic jewelry decorations which would not be suggestive of slidable removal as presently claimed. Moreover, the design does not even hint at an inexpensive stretchable friendship band but an inherently sturdy wristwatch band probably consisting of metal, nylon or leather. The base claim 27 as amended is stretchable carrying loop means with indicia affixed upon and being slidably removable so as to be exchangeable with similar loops of other friendship bands.

Applicant that Claim 27 as amended is completely free of the cited art and its allowance is solicited. Claims 33, 34, and 37 are dependent form an allowable base claim and thus are deemed alsoallowable.

- **The Examiner's Position:**

The Examiner has rejected claims 28 and 29 under 35 U.S.C. §103(a). The Examiner alleges as to claim 28, Winn fails to disclose the first material (band) being elastic as claimed by the applicant while Kuroda allegedly discloses a similar friendship band including an elastic band for improved comfort. Therefore, as taught by Kuroda, it would have been obvious to one of ordinary skill utilizing an elastic band section thereby improving comfort. Regarding claim 29, Koruda discloses the band portion 6 is made of rubber. In as much as Kuroda does not suggest the stretchable friendship band with the advantageous slideably removable and exchangeable loops tagged with indicia as presently claimed in the allowable base claim, the claim 28 is also deemed allowable.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winn. While Winn fails to specifically disclose the first and second material as being the same material, the Examiner alleges it would have been an obvious design choice to utilize the same material for the first and second materials as the selection of a known material based upon its suitability for the intended use is a design consideration. Applicant asserts claim 36 is deemed patentable subject matter since it depends from allowable base claim 27 as amended.

Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winn in view of Schmidt (US 4753086). In particular, the Examiner alleges that as to instant claim 38, while admitting that Winn fails to disclose an outer surface layer enclosing the band section, as claimed by the applicant, Schmidt discloses a similar friendship band including an outer surface layer 30 enclosing band section 11 whereby the outer surface layer is interchangeable thus providing decorative options. Therefore, as taught by Schmidt, it would have been obvious to one of ordinary

skill in the art at the time the invention was made to modify Winn by including an outer surface layer enclosing the band section whereby the outer surface layer was interchangeable thus providing further decorative options. Applicant traverses the Examiner's misreading of the invention and asserts that the claim 38 as presently amended renders the second layering of the band just short of a stretchable or elastic section (see page 8 of the Specification, lines 14-23) distinct and different from the combined references.

Regarding claim 39, although Schmidt discloses the outer surface layer as a fabric material, the Examiner admits that Schmidt fails to disclose the specific outer surface layer material as claimed the Applicant would be expected to choose suitable materials. Applicant asserts here that the prior art does not suggest the claimed invention and in as much as base claim 27 is deemed allowable, claim 39 is also believed allowable.

Applicants respectfully traverse the Examiner's 35 U.S.C. §103(a) rejection based in part upon the argument that the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would not have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

RESPONSE TO ALLOWABLE SUBJECT MATTER

- **The Examiner's Position:**

Claims 30, 31, 35, and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 32 would be allowable upon overcoming the rejection(s) under 35 U.S.C. 112, first paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Applicant's Response:

Applicant respectfully traverses the objection to claims 30, 31, 32, 35, and 40 arguing that the claim from which they depend are independently patentable. However, as further set forth above, Applicants have amended base claim 27 so as to overcome the rejection and assert therefore that these claims dependent therefrom are also allowable. It is therefore asserted that the claims are in condition of allowance. Furthermore, contrary to the Examiner's contention, the loop material is described as being optionally the same as the band material, that is elastic or stretchable (page 9, lines 6-9).

CONCLUSIONS

An early notice of allowance in the next office is earnestly requested.

Respectfully Submitted,



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